

Alves, Jordan

From: Alves, Jordan
Sent: Tuesday, February 26, 2019 2:50 PM
To: 'Brian Shaughnessy'
Cc: Howard Gross, Esq.
Subject: RE: Lead Paint Issues - 32 Prospect Street, Somersworth New Hampshire

Mr. Shaughnessy,

I have confirmed a site visit with Mr. Luciani at 11:00AM. We will primarily be looking at the recent renovation work involving the exterior as well as the heater installation project in the foyer. We may or may not be able to make a determination if the plumber's work is covered by the RRP rule during the site visit.

If possible, I would like to have Buddy Aiken or a representative from Rainbow Painters present at either 11:00AM or 1:00PM so we can go over what exactly was done at the property. We could also like a copy of the invoice or a statement of payment for the work done involving the pressure washing. Please let me know if you are unable to get in contact with Mr. Aiken to schedule a meeting.

Regards,

Jordan

From: Brian Shaughnessy <brian@srlaw-nh.com>
Sent: Friday, February 22, 2019 3:56 PM
To: Alves, Jordan <alves.jordan@epa.gov>
Cc: Howard Gross, Esq. <hgatlaw@aol.com>
Subject: RE: Lead Paint Issues - 32 Prospect Street, Somersworth New Hampshire

Mr. Alves

I have confirmed the appointment with Mr. Gross for March 1, 2019 at 1:00 pm at his Dover office, 466 Central Avenue #6, Dover NH. Although Mr. Gross does not want to be present for a site inspection at the same time that Mr. Luciani is present, I would like to be present for the site inspection. I understand that you were going to attempt to schedule the site inspection for the same day as our meeting, at a time just prior to our meeting. If you are able to confirm a site inspection for March 1, with Mr. Luciani, please include me as being in attendance.

A plumber remove a large radiator in the foyer on December 20th and replaced it with 2 smaller heaters. I do not know whether this triggered the Renovator's Rule, but we will have the contractor information available for you during our visit and after you have determined whether the scope of that repair required disclosure. The painter power washed the exterior in mid-late September. Rainbow Painters PO Box 46, Alfred ME (Buddy Aiken) (207) 324-5782

Brian C. Shaughnessy, Esq.
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AS OF DECEMBER 1, 2017 THE NAME OF THE FIRM IS SHAUGHNESSY RAICHE, PLLC AND OUR EMAIL ADDRESS IS NEW

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From: Alves, Jordan <alves.jordan@epa.gov>
Sent: Friday, February 22, 2019 10:53 AM
To: Brian Shaughnessy <brian@srlaw-nh.com>
Cc: Howard Gross, Esq. <hgrattlaw@aol.com>; ekrasner@krasnerlawoffice.com
Subject: RE: Lead Paint Issues - 32 Prospect Street, Somersworth New Hampshire

Mr. Shaughnessy,

Thank you for this response. I will be available today 12:15PM-4PM for a call.

The purpose of the inspection is to determine compliance with the 1018 Disclosure Rule as well as the Renovation, Repair, and Paint (RRP) Rule. As you have already stated and made clear, it seems there is some level of noncompliance with the Disclosure Rule. The meeting would be to explain EPA standard procedure when situations like this arise as well as issue our notice of inspection, receipt for documents, and confidential business information forms which I have attached. We will then explain the potential outcomes to Mr. Gross. We tend to stay out of tenant-landlord disputes, and try to determine if EPA regulations have been followed. Because this lease was not contracted under RPM we will not be investigating them for the Disclosure Rule. If RPM hired contractors to work at the property where maintenance or renovations would have disturbed painted surfaces, then please inform us.

We will then begin looking into the hired contractors for compliance with the RRP rule. We typically request EPA firm certification, individual renovator certification, and required RRP recordkeeping. It is our hopes that they may be present or at least made aware of our open investigation. We will treat them as independent contractors rather than associates or subcontractors of Mr. Gross.

I look forward to hearing from you.

Regards,

Jordan

From: Brian Shaughnessy <brian@slaw-nh.com>
Sent: Thursday, February 21, 2019 4:57 PM
To: Alves, Jordan <alves.jordan@epa.gov>
Cc: Howard Gross, Esq. <hgalaw@aol.com>; ekrasner@krasnerlawoffice.com
Subject: Lead Paint Issues - 32 Prospect Street, Somersworth New Hampshire

Mr. Alves

I have been retained to represent Howard Gross in connection with the multiple lawsuits and issues he presently faces with respect to his tenant at 32 Prospect Street, Somersworth, NH, as well as the requested EPA lead paint compliance inspection. It is my understanding that you would like to schedule a time to meet with Mr. Gross, and review records pursuant to section 1018 of the Residential Lead-Based Paint Hazard Reduction Act. It is my further understanding the request includes a meeting with the tenant, a representative of Real Property Management Seacoast New Hampshire, along with other contractors.

Both Mr. Gross and I are available to meet with you on March 1, at 1 PM. However, I would like to speak with you directly regarding whether I will permit Mr. Gross to go to the property while the tenant, Tony Luciani, is present. It is not clear to me that Real Property Management Seacoast New Hampshire (RPM) has any role in connection with a Section 1018 inspection. At the time of lease inception, September 1, 2018, Mr. Gross was not represented by a property management company. Mr. Gross is not in the landlord business. Mr. Gross lived in this home at 32 Prospect Street for over 20 years. Upon moving approximately six years ago, he elected to rent the home rather than sell it, but had no intention of going into the real estate rental business. Other than renting a room in his present home to a student, he does not maintain other rental property. He had no difficulty with his prior tenants, but soon after leasing the property to Mr. Luciano ran into problems that were beyond his level of expertise so he hired RPM in late November 2018 to address the ongoing issues with Mr. Luciano. RPM issued an eviction notice on December 5 for the nonpayment of December rent which has resulted in Mr. Luciano filing an RSA 540-A petition with the Dover District Court (which was ultimately dismissed mid-January), filing a complaint with the Somersworth Code Enforcement officer, and contacting the EPA regarding lead paint issues. A day after another eviction notice issued on February 12 by RPM for nonpayment of January and February rent, Mr. Luciano filed another RSA 540-A petition with the Dover District Court which is presently pending. RPM was not involved with the leasing of this property and therefore were not be involved in any lessor lead paint disclosure. Please indicate whether RPM is a necessary party. If so, I will RPM to provide me contact information for its attorney and will attempt to coordinate with RPM in order to make its representative available for a meeting with you.

I was unable to open the file you previously forwarded which contained EPA inspection authorizations and information. I represented a number of landlords and management companies in the past with respect to section 1018 inspections so I am somewhat familiar with the process but would like to receive a copy of the documents you transmitted just in case there have been major revisions that I may not be aware of.

Please be assured that both Mr. Gross and I will be 100% cooperative with the EPA and provide whatever information is needed. I am attaching a copy of the lease agreement with Mr. Luciani. This is the same lease form Mr. Gross had for his prior tenant at 32 Prospect Street. Unfortunately, Mr. Gross was not aware of his obligations to provide a lead paint pamphlet and lessor disclosure form. Accordingly there is no disclosure forms to provide to you.

The issue of lead paint did not arise until after Mr. Luciani complained about insufficient heat and received an eviction notice. Mr. Luciani has indicated that his child had an elevated lead level, however, Mr. Gross is not received any letter from the State of New Hampshire informing him of a child with a blood lead level of five or above, nor has any abatement notice or order been issued. Before renting the property, Mr. Luciani indicated that he was a Nuclear Inspector with the Portsmouth Naval Shipyard, and had previously been employed restoring historic homes in Beverly and Salem Massachusetts, as well as building houses from the ground up. He offered to perform work on this home in exchange for rental credit. Accordingly, it is clear to me that Mr. Luciani fully understands that a Victorian home constructed in 1850 would probably contain lead paint and he is using his superior knowledge in order to gain a legal advantage over a landlord that had very little knowledge regarding this issue. That is why I do not want Mr. Gross to be present during any inspection of the property when Mr. Luciani is also present. If possible, I would like to arrange a meeting between you and Mr. Gross in the first instance, and then arrange for a subsequent inspection of the property. I have filed an eviction action in the Dover District Court and expect that Mr. Gross will be entitled to receive possession of the home after the eviction hearing is scheduled within the next 30 days. Mr. Gross is not really interested in being a landlord and has discussed with me putting this home up for sale. While I understand that his removal of this unit from the residential rental market does not excuse a lack of compliance with the residential lead-based paint hazard reduction act, he will have an easier time addressing any lead paint issue that may exist at the property when there is no tenant occupying the premises. Mr. Luciani has denied entrance into the property on multiple occasions since the end of December, 2018, and at this point several contractors have refused to provide services to the property due to the behavior of Mr. Luciani.

Please provide a time when I may call you tomorrow to discuss these matters further. Thank you.

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